

183

The 3rd May, 1982

No. 9(1)-82-6Lab/3779.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Jai Hind Iron Foundry Samalkha, Mandi Smalkha (Panipat).

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 2 of 1981

between

SHRI KARTAR SINGH, WORKMAN AND THE MANAGEMENT OF M/S JAI HIND IRON
FOUNDARY SAMALKHA, MANDI SMALKHA (PANIPAT)

Present :—

Shri Raghubir for the workman.

Shri D. Kaushal for the management.

AWARD

By order of reference No. ID/KNL/130-80/374, dated 5th January, 1981, the Governor of Haryana referred the following dispute between the management of M/s. Jai Hind Iron Foundry Samalkha Mandi, Samalkha (Panipat) and its workman Shri Kartar Singh, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Kartar Singh was justified and in order ? If not, to what relief is he entitled ?

On the receipt of the order of reference, notices were issued to the parties who appeared and filed their pleadings, on the the pleadings the issue under reference was put under trial by order dated 12th August, 1981. In evidence the management examined Shri Pawan Kumar partner as MW-1 and closed his arguments were heard.

The finding on the issue. Shri Pawan Kumar deposed that according to attendance record the concerned workman was present upto 29th March, 1980. He was absent on 31st March, 1980. He did not report for duty, during the month of April, on account of crop Harving. He reported for duty on 14th May, 1980 and worked upto 24th June, 1980. Thereafter he remained absent and so marked in the attendance register upto 11th July, 1980. He received his salary in the month of May Rs 154-80 and in the month of June Rs 190. The demand notice and Conciliation report were Exhibit M-1 and Exhibit M-2. In cross examination he replied that Shri Sat Narain maintained attendance register. No rules or Standing Orders were in force in the factory. All the workmen of moulding shop were shown absent in the month of April. It was a practice in the factory that the workmen who attended for duty after the harvesting season were taken on duty. Shri Kartar Singh put his name in the payment of wages register in April, 1979. He signed as kartar in the months of February, March, 1980 whereas he signed as Kartar Singh in the month of May, 1980. The signatures of the previous month were not looked at the time of payment of wages. He admitted it as correct that no letter was sent to the workman about his absence MW-2 deposed that he had brought wages registers for the years 1979-80 and 1980-81. He maintained attendance register. The workman was not on duty in the month of April, 1980 but was present during the month of May and was paid Rs. 139.84, for the month of June he was paid Rs. 169-80. In cross examination he replied about the marking of thumb impression signing as Kartar and Kartar Singh in different months as was replied by MW-1. The concerned workman who appeared as WW-1 stated that he had been in employment for the last five years. His service was terminated telling him that there was no work for him in the factory. In cross examination he replied that in the payment of wages register in the month of May and June are not his signature while in January 1980 are his signature. In the months of March and July may be his signature. He denied his signatures on his written statement and letter of authority and was not sure about the signatures on his rejoinder. He admitted that Shri Sat Narain performed the duty of clerk.

The main argument on behalf of the management was that in the demand notice the workman has given the date of his termination 27th March, 1980 whereas he worked during the month of May and June, 1980. The management led evidence to prove payment of wages for the above months

and showed the signatures of the workman to him. The workman was not able to accept or deny all his signatures in the payment of wages register. I am unable to put credence to the denial of his signatures because the workman even denied his signatures on the written statement and letter of authority filed by him in these proceedings. The version of the management that the workers leave their duty during the harvesting season every year is plausible. This fact was not denied by the workman as he stated that the foundry did not work for 4-5 days. The workman was present upto 24th June, 1980 and then was absent. His name was kept upto the month of July in the attendance register as stated by M-1.

On the above facts I have reached the conclusion that the management did not terminate his services as alleged in the Demand Notice. I decided the issue in favour of the management.

I give my award that the workman was not entitled to any relief.

Dated, 26th March, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 372, dated 7th April, 1982

Forwarded (four copies) to be Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6-lab/4047.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the Management of M/s. H.R. Gupta Industries, Bahadurgarh.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK.

Reference No. 20 of 1978

between

SHRI MAUJI RAM, WORKMAN AND THE MANAGEMENT OF M/S H. R. GUPTA
INDUSTRIES, BAHADURGARH

Present:—

Shri Dhan Singh, for the workman.

Shri M. M. Kaushal for the management.

AWARD

This reference has been referred to this Court by the Hon'ble Governor *vide* his order No. ID/RK/590-77/3496 dated the 31st January, 1978 under section 10 (i) (c) of the I. D. Act for adjudication of the dispute existing between Shri Mauji Ram, workman and the management of M/s. H. R. Gupta Industries, Bahadurgarh. The term of the reference was:—

Whether the termination of services of Shri Mauji Ram was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference, notices as usual, were sent to the parties. The parties put in their appearance, in response to the notices sent to them on 14th March, 1978. The parties filed their pleadings, on the basis of which the following issues were framed:—

1. Whether the reference is bad in law as alleged on the basis of alleged resignation of the workman ?
2. Whether the workman arrived at settlement after the reference and is estopped from pursuing the reference ?
3. If issue No. 1 and 2 not proved as per reference ?

The management was asked to adduce their evidence. The management examined Shri H. K. Gupta, partner, Shri Ram Sarup, Assistant O/o Labour Commissioner Haryana, Chandigarh and closed their case. The workman examined Shri O. D. Sharma, Labour Officer, Hissar and himself as his witnesses and closed his case. I heard the representatives, of the parties and decide issue-wise as under:—

Issue No. 1:

The management has alleged that the workman submitted his resignation on the 18th October, 1977 and the same was accepted by the management on the same day the acceptance was conveyed to Shri Mauji Ram workman who put his signature in tone of the same beneath the letter accepting the resignation. The management has relied on document Ex-MW-1/B and which is duly proved by Shri O. D. Sharma the then Labour Officer with remarks at Point 'X' which are admitted to have been written by Shri O. D. Sharma who appeared as WW-1 which contains the stipulation to the effect that the management in their written statement during the conciliation proceedings has stated that the workman resigned his job voluntarily and the copy of the resignation was attached therewith. The management also produced the originals of the resignation and the letter of acceptance which are Ex. M-1 and M-2. The workman was confronted with these documents and was asked whether these documents were signed by him. The workman replied in negative. But by reading the whole cross examination of the workman it is clear that the workman has denied his signatures on some of the documents and admitted on some of them blindly without trying to recognise his signatures. Though all the documents with which he was confronted with bare perusal of the same and by a naked eye, it is seen that there are the signatures of the workman on all these documents. The workman denied his signatures on mark 'C' at point 'X' which is the authority letter in favour of Shri Dhan Singh, also on Mark 'D' at point 'X' which is the rejoinder filed by him. The workman has also denied his signatures at point 'A' on Ex. M-3 which is the payment of wages register for the month of October, 1977 though Shri Dhan Singh admitted his signatures who had signed as witness at the same point on Ex. M-3. The workman also denied his signatures on Ex. M-7 at point 'A' which his authorised representative Shri Dhan Singh had signed as witness and admitted his signatures on the same.

The statement of the workman is highly incredible and no reliance can be placed on his statement. Under these circumstances I am constrained to hold that the workman resigned his job voluntarily and as such the reference is bad in law as there was no industrial dispute between the parties calling for a demand under section 2(S) of the I. D. Act. The issue is accordingly decided in favour of the management.

Issue No. 2 & 3:—

In view of my findings on issue No. 1 no further decision on these issues is required as this is a case of voluntary resignation by the workman and not the termination of services by the management requiring justification from them. The workman is not entitled to any relief. The reference is answered and returned accordingly.

Dated, the 9th April, 1982.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endst. No. 983, dated the 15th April, 1982

Forwarded (for copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.